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97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-683

DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE LAS VEGAS PAIUTE TRIBE

DECEMBER 15 (Legislative day, NOVEMBER 30), 1982.—Ordered to be printed

Mr. COHEN, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 2998]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2998) to declare that the United States holds certain lands in trust for the Las Vegas Paiute Tribe, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. Page 3, following line 18, insert the following:

> Township 20 south, range 61 east, Mount Diablo base line and meridian, 10 acres of land within section 27 as acquired by the United States for the use of Paiute Indians by deed dated December 30, 1911, said deed being of record in Book 2, Page 246 in Clark County, Nevada.

2. On page 3, line 23, strike all the words following "enactment of this Act." through page 4, line 4, "Reservation," and insert in lieu thereof the following:

> (c) Section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is further amended by inserting ", and lands held in trust for the Las Vegas Paiute Tribe of Indians", immediately after "Chelan County, Washington," in the second sentence.

PURPOSE

S. 2998 would provide the Las Vegas Paiute Tribe with 3,150 acres of vacant, undeveloped public land in Las Vegas, Clark County, Nevada. The land would be held in trust for the tribe by the United

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States and would enable the tribe to further its economic development and provide need residential space for its members. The bill would also transfer the beneficial ownership of a 10 acre parcel, which the Tribe presently uses and occupies, to the Las Vegas Paiute Tribe.

Background and Need

The Las Vegas Paiute Tribe is a member of the Southern Paiute Nation and resides on a 12.54 acre reservation in Las Vegas, Nevada. There are currently 143 tribal members. The original reservation of 10 acres was acquired for the Tribe in 1911 by the United States. The federal government holds the legal title to the land as well as the beneficial title. An additional 2½ acres was acquired by the Tribe with its own funds.

Part of the reservation is developed for commercial use and houses a community service building and a commercial building. The tribally owned construction company is presently engaged in completing the commercial building. The remainder of the reservation is residential and is occupied by 28 dwellings.

The approximately 3,150 acres of vacant, undeveloped public lands which would be transferred for the benefit of the Tribe by S. 2998 is located 15 miles northwest of the existing reservation. The land will be u ed to develop tribal economic enterprises and to provide needed residential space for tribal members. Tribal membership has increased by 300 percent since 1911 and the existing reservation is inadequate to sustain this population.

Possible commercial uses for the land which are being considered by the Tribe include a sand and gravel operation, a ski and sport shop and motel to be used in conjunction with a nearby ski area, and potential joint ventures with local manufacturing companies. The tribe currently runs a successful construction company and smoke shop.

The land to be transferred by S. 2998 is bounded on three sides by public lands and on the remaining side by mixed residential and commercial land. The transfer is supported by the City of Las Vegas, the City of North Las Vegas, the State of Nevada and the Clark County Department of Comprehensive Planning. The Bureau of Land Management has not submitted a fixed estimate of the value of the land. Estimates have ranged from $50 to $2,000 per acre.

Legislative History

S. 2998 was introduced in the Senate by Senators Cannon and Laxalt on September 30, 1982. The bill was referred to the Senate Select Committee on Indian Affairs. The Committee held a hearing on the bill on December 7, 1982.

Committee Recommendation

The Select Committee on Indian Affairs, by a poll of its members completed on December 15, 1982, recommends that the Senate pass S. 2998, as amended.

Committee Amendments

The beneficial and legal title to the original 10 acres of Las Vegas Paiute reservation land are held by the United States. The committee amendment to subsection (a) of the bill transfers the beneficial

title to the land to the Las Vegas Paiutes while leaving the legal title with the United States.

The Committee also amended subsection (c) of S. 2998 which provides the Las Vegas Paiute Tribe with long term leasing authority by substituting clarifying language. The purpose and effect of the subsection has not been changed.

Section-by-Section Analysis

Subsection (a)—This subsection includes the land description of the 3,150 acres to be transferred to the United States for the benefit of the Las Vegas Paiute Tribe. The land will be held in trust for the Tribe and is declared to be part of the Las Vegas Paiute Reservation. A land description of the 10 acres of the Las Vegas Paiute Reservation, the beneficial title to which is to be transferred to the Tribe, is included in this subsection.

Subsection (b)—All rights-of-way, mining claims, grazing permits, water rights and other interests in the subject land which existed prior to the date of the enactment of this Act are protected by this subsection.

Subsection (c)—This subsection amends the Act of August 9, 1955 (25 U.S.C. 415) to include the Las Vegas Paiute Tribe. The Act permits restricted Indian lands to be leased for long terms for certain purposes with the approval of the Secretary of the Interior. These purposes include business and residential development.

Subsection (d)—Section 164 of the Act of July 14, 1955 (42 U.S.C. 7474) is made applicable to the Las Vegas Paiute Reservation. The Act which is intended to prevent and control air pollution, vests the right to redesignate lands within the bounds of an Indian reservation with the Indian governing body. If disagreement arises between the State and the Indian tribe affected by the redesignation, an Administrator will be appointed to resolve the dispute. The redesignations relate to the different levels of air pollution connected with various land uses.

Cost and Budgetary Consideration

The cost estimate for S. 2998, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., December 15, 1982.

Hon. William S. Cohen,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2998, a bill to declare that the United States hold certain lands in trust for the Las Vegas Paiute Tribe, as ordered reported by the Senate Select Committee on Indian Affairs, December 15, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this bill. The bill would provide that the United States hold in trust approximately 3,150 acres of land near Las Vegas, Nevada for the last Las Vegas Paiute Tribe. This land is presently administered by the Bureau of

Land Management and is valued by the Department of the Interior at between $50 and $2,000 an acre, depending upon the parcel in question.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill.

The Committee believes that S. 1468, as amended, will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATION

The legislative report on S. 2998 received by the Committee from the Department of the Interior is set forth below:

STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS, BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS, U.S. SENATE, ON S. 2998, A BILL TO DECLARE THAT THE UNITED STATES HOLD CERTAIN LANDS IN TRUST FOR THE LAS VEGAS PAIUTE TRIBE, DECEMBER 7, 1982

Mr. Chairman and Members of the Committee, I am pleased to have the opportunity to present the views of the Department of the Interior on S. 2998, a bill "To declare that the United States hold certain lands in trust for the Las Vegas Paiute Tribe."

In the short time available to review this proposed legislation, we have identified a number of factual and other issues relevant to the bill but have not yet had sufficient time to answer all the questions that have been raised. For these reasons, we recommend that action on S. 2998 be deferred until a more detailed analysis can be completed.

S. 2998, if enacted, would authorize the transfer of approximately 3,700 acres of public lands to the Las Vegas Paiute Tribe. Such lands would be held in trust for the Las Vegas Paiute Tribe and be made part of the Las Vegas Paiute Reservation. The transfer would be subject to all "valid existing rights."

The purpose of this legislation is to provide the Las Vegas Paiute Tribe with a larger land base, to enable its members to become more economically self-sufficient and improve its general socio-economic status. However, the transfer of Federal property to any entity, whether other Federal agency, State, Indian tribe or private citizen, without payment of fair market value to the Treasury, is inconsistent with Executive Order 12348, dated February 25, 1982, regarding management of Federal real property.

Further analysis of the questions raised by S. 2998 will insure that the bill's goals can be achieved, without impairing other land management objectives. Payment for the land could be made through

at least two possible mechanisms: direct appropriation in an amount equal to the market value of the subject lands; or installment payments by the tribe at market rates of interest over a reasonable period of time.

The existing Las Vegas Paiute Colony site, located in the City of Las Vegas, consists of 12½ acres, ten acres of which were acquired in 1911 with funds appropriated by Congress. The Tribe later purchased a 2½-acre parcel adjacent to the 10-acre tract, using tribal funds. The majority of this land is fully utilized by streets, a cemetery, community service buildings and a commercial building; the small remainder of the property is devoted to residential use and is occupied by 28 dwellings for many of the tribe's 143 enrolled members.

On-reservation employment is currently provided for some tribal members through several tribal businesses. A community center, which opened in September, 1981, was constructed with joint tribal and U.S. Department of Housing and Urban Development community development block grant program funds. The majority of this construction project utilized Indian laborers. Also in 1981, the Las Vegas Paiute Construction Company was formed. The construction company is bonded, employs 26 individuals and has the ability to perform all types of building construction on or off the reservation.

Through the personal capital of the Tribal Chairman and Vice Chairman, a smoke shop operation for the Tribe was started. This tribal enterprise has emerged not only as a successful business, but also as a primary source of funds for social and community needs. The Tribe has also created its own social service and education programs and maintains tribal council offices and a tribal court. The Tribe has employed a police officer to enforce and carry out law enforcement and safety regulations on the reservation. The tribal police officer works in conjunction with State, county and city law enforcement agencies. The cost of this service is paid for with tribal funds.

If enacted, S. 2998 would provide the Las Vegas Paiute Tribe an increased land base, which would enable the Tribe to house its growing population and expand its business operations to provide the economic base needed for the support of that population.

If the additional land is acquired, the Tribe plans to provide the necessary lands to tribal members for independent and privately financed housing. Providing specific tracts of the subject land for the construction of public housing for tribal members is also being planned.

Another specific use included in the Tribe's land-use plan for the lands described in S. 2998 is business development, which includes agricultural development and the establishment of an industrial park for light manufacturing and industry.

The public land that would be transferred under S. 2998 is located 15 miles northwest of the existing reservation and has a right-of-way for a highway and power lines across many of the sections. These roads and power lines, however, are viewed as a positive factor, because commercial and light industrial uses of the property will be enhanced by the traffic and power supply available to the area.

The location is extremely suitable for a truck stop and service center, because no service of this type is currently available in the near vicinity. In addition, the Mt. Charleston Ski Area is located approxi-

mately 7 miles west of the subject lands. Accommodation for enthusiasts are not available and thus a motel, ski and sport shop could profitably be located in a shopping complex.

The Cities of Las Vegas and North Las Vegas continue to expand in a northwesterly direction toward the subject property. Services for the expanded cities are not presently available in the near vicinity, making service facilities a viable prospect.

Other uses for this land could include a sand and gravel operation in conjunction with a concrete batch plant. As growth of the cities progresses near the site through construction of dwellings, streets and other amenities, a demand for such products will be created.

Several factors were considered by the Tribe in selecting the subject block of land. It should be large enough to allow for housing, commercial, light industrial and agricultural purposes, consistent with the tribal land use plan. It should also have access to a major highway. It should allow room for a sand and gravel operation for the immediate direct benefits of the Tribal Construction Company and as an important source of future revenue, as existing sand and gravel sites nearer Las Vegas are depleted.

There are other lands available which are nearer to the Tribe's existing reservation; however, they do not meet the needs of the Tribe as well as those described in S. 2998. Also, lands closer to Las Vegas are subject to the provisions of Public Law 96–586 (94 Stat. 3381), an Act which provides for the exchange of lands near Las Vegas for lands in the Lake Tahoe area. Tribal selections of lands in that area would interfere with the intent of that Act and would raise the value of the lands to a prohibitively high figure, perhaps 5 to 20 times the value of the lands being requested by the Tribe in S. 2998.

The Department's review of the proposed land transfer has raised a number of issues which merit further evaluation, before a recommendation is made. Those issues include the following:

(1) No comparable sales or appraised values have been identified to date in the vicinity of the subject lands. This makes a determination of fair market value highly subjective and subject to challenge. The wide range of possible values is illustrated by the fact that representatives of the Bureau of Land Management have submitted estimates of $50 to $2,000 per acre, depending on projected or potential uses; access to transportation, water and utilities; and other market factors.

(2) Conflicts between this tribal land selection and the Burton-Santini legislation for Lake Tahoe are possible, though not highly likely. The lands selected by the Las Vegas Paiute Tribe are not within the package of lands initially cleared for sale under Burton-Santini. However, conflicts could foreseeably arise in the future, as the State still has the option of selecting an additional 10,000 acres elsewhere in Clark County, and selections under other public land disposal laws are also possible. For example, the Clark County School district has applied for several small tracts within the subject 3,700 acres under the Recreation and Public Purpose Act and the Administration's Good Neighbor policy, and laws like the Desert Lands Act also provide selection opportunities. Thus, there is a need to determine whether other applications are pending for acreage within the tribally selected tract.

(3) The land in question is not presently agricultural in nature, and

the depth to the water table and associated drilling costs are such as to preclude standard agricultural development. In addition, water development could interfere with the Las Vegas municipal water supply. For these reasons, one individual Indian's allotment application for agricultural land in the area has been turned down, and four other applications will likely also be turned down. However, other land and water uses are possible, and the protection of valid existing rights, including water and pending applications should be specifically safeguarded by this legislation; that is, specific categories of valid rights should be mentioned and the scope of those rights addressed.

Because of these and other uncertainties surrounding the proposed legislation, we cannot support enactment of S. 2998 at this time. We recommend that action on the bill be deferred for a sufficient time to enable the Department to appoint a team of specialists who can review these issues and work with tribal, State and local government representatives to devise a mutually agreeable approach.

We recognize that the Tribe is anxious to proceed with its plans. However, we believe it will be in everyone's best interest if potential problems and conflicts can be identified and resolved in advance of the bill's enactment, rather than be left to lengthy litigation in the courts afterward. We pledge our commitment of the Department's personnel and other resources, to insure that these matters are resolved as expeditiously as possible.

This concludes my prepared statement. I shall be pleased to respond to any questions the Committee may have.

Changes in Existing Law

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law: The Act of August 9, 1955 (25 U.S.C. 415) is amended to include the Las Vegas Paiute Tribe in the list of tribes which are permitted to enter into long term leases of their reservation land.

The change in existing law is set forth below with the change noted in italic

§ 415. Leases of restricted lands for public, religious, educational, recreational, residential, business, and other purposes; approval by Secretary

(a) Any restricted Indian lands, whether tribally, or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, except leases of land located outside the boundaries of Indian reservations in the State of New Mexico, and leases of land on the Agua Caliente (Palm Springs) Reservation, the Dania Reservation, the Moapa Indian reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave

Reservation, the Burns Paiute Reservation, the Coeur d'Alene Indian Reservation, the Kalispel Indian Reservation, the pueblo of Cochiti, the pueblo of Pojoague, the pueblo of Tesuque, the pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, Yavapai-Prescott Community Reservation, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington *and lands held in trust for the Las Vegas Paiute Tribe of Indians*, which may be for a term of not to exceed ninety-nine years, and except leases of land for grazing purposes which may be for a term of not to exceed ten years. Leases for public, religious, educational, recreational, residential, or business purposes (except leases the initial term of which extends for more than seventy-four years) with the consent of both parties may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior. Prior to approval of any lease or extension of an existing lease pursuant to this section, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

(b) Any lease by the Tulalip Tribes under subsection (a) of this section, except a lease for the exploitation of any natural resource, shall not require the approval of the Secretary of the Interior (1) if the term of the lease does not exceed fifteen years, with no option to renew, or (2) if the term of the lease does not exceed thirty years, with no option to renew, and the lease is executed pursuant to tribal regulations previously approved by the Secretary of the Interior.

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